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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,228	09/10/2003	Barbara Rae Ryan	54151.19US1	3486
34018 7590 08/17/2009 GREENBERG TRAURIG, LLP 77 WEST WACKER DRIVE SUITE 3100 CHICAGO, IL 60601-1732				
EXAMINER				
RETTA, YIHDEGA				
ART UNIT		PAPER NUMBER		
3622				
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08/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/659,228

Applicant(s)

RYAN ET AL.

Examiner

Yehdega Retta

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59 and 63-68 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 59 and 63-68 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This office action is in response to amendment filed June 2, 2009. Applicant amended claim 59, cancelled claims 52-58, 60-62 and added claims 63-68. Claims 59 and 63-68 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 59, 63-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voltmer et al. (US 7,398,225 B2) and further in view of James Cigliano et al. "The Price of Loyalty, The McKinsey Quarterly 2000 November 4 (hereinafter Cigliano).

Regarding claims 59 and 68, Voltmer teaches a distribution system to distribute a recurring cash value benefit to the consumer; *a point of sale device associated with the retail store* (located at the retail store) for accepting the distributed recurring cash value benefit (see col. 14 lines 16-67; *wherein the most-valued consumer is selected from a plurality of consumers based on at least one of a net amount spent on purchases within a predetermined amount of time at the retail store by individual ones of the plurality of consumers, the retail store's gross profit margin on the purchases made by individual ones of the plurality of consumers, and a number of trips to the retail store made by individual ones of the plurality of consumers*. Voltmer teaches the system may be used to compile, analyze and report data in a manner which would inform any or all network participants that for example a specific consumer (1) has made multiple purchases

of particular manufacturers' products, (2) has spent Q dollars over a certain time period (3) at specific multiple retailers and (4) of the purchases made ... Voltmer further teaches system administrator may allocate rewards points to participants in the system (col. 10 lines 33-67). Voltmer also teaches the central rewards mechanism may receive and process consumer ID information and purchase data from any of the retailer system and the analysis may comprise, for example, a calculation of rewards points ... (see col. 12 lines 5-50) and/or may also associate a particular consumer ID with the purchase data and a corresponding analysis may be Voltmer also teaches that for example if a participating consumer buys a **product from a retailer for \$ 100** and if the retailer rewards ratio is one reward point for each dollar ... earning 100 points (see col. 12 lines 21-50). Voltmer does not explicitly teach that *the most-valued consumer is selected from a plurality of consumers*. Cigliano teaches "InCircle Reward loyalty program" uses exclusivity and attention-grabbing rewards to reinforce the company's value proposition among the *high-spending segments* and to create a "halo" effect *among the broader customer base*; the membership being limited to customers who spend at least \$3,000 annually (see page 75 and also page 76). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the reward to all participating customer and/or to use the customers' purchasing data of Voltmer to provide exclusive reward to customers who are considered to be valued-customer (based on their spending habits) in order to change the behavior of heavy spenders, by encouraging them to spend their money at the store, as taught in Cigliano.

Regarding claims 63 and 66, Voltmer teaches the recurring cash value benefit has the form of a paycheck; distributing the benefit via Internet (see col. 9 lines 23-27, col. 14 lines 16-33).

Regarding claim 67, Voltmer does not teach distributing the benefit via an email message. Official notice is taken that is old and well known in the art of retail store, for stores to send email message to customer to inform them about the benefit. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the email message in Voltmer, in order to inform the customers of the reward earned, since email is the convenient way of communication.

Claims 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voltmer et al. (US 7,398,225 B2) in view of James Cigliano et al. "The Price of Loyalty, The McKinsey Quarterly 2000 November 4 (hereinafter Cigliano) further in view of Sullivan (US 6,941,279 B1).

Regarding claims 64 and 65, Voltmer teaches wherein the benefit comprises of gift certificates, rebates, credit etc., but does not explicitly teach wherein the benefit is distributed on a monthly or quarterly bases. Sullivan teaches a rebate calculated periodically, such as monthly or quarterly basis and a statement is issued to the cardholder which includes an entry for total accumulated rebate. Sullivan also teaches that the rebate amount is preferably transferred ... submitting the rebate as a two-party check which can be submitted by the customer to the investment account provider (see col. 3 lines 1-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to send the rebate statement of Voltmer monthly or yearly, as in Sullivan, if the rebate is calculated periodically, as taught in Sullivan.

Response to Arguments

Applicant's arguments with respect to claims 59 and 63-68 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622